

AGENDA

MILWAUKIE CITY COUNCIL WORK SESSION SEPTEMBER 15, 2003

WORK SESSION – 5:30 p.m.
Second Floor Conference Room

MILWAUKIE CITY HALL
10722 SE Main Street

Discussion Items

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>
1.	5:30 p.m.	Dinner and Information Sharing <ul style="list-style-type: none">• Council questions and comments on September 16 Agenda Items – these questions and/or comments can only be on those items that are legislative and not on those that are quasi-judicial, like land use or liquor license hearings	Group
2.	6:00 p.m.	Open Public Forum	Group
3.	6:30 p.m.	New Fine Structure for Violations of State Traffic Code	Mike Swanson
4.	7:00 p.m.	Draft Mayor/Council Communications Agreements	Mike Swanson
5.	7:30 p.m.	Adjourn	

Public Notice

- The Council may vote in work session on non-legislative issues.
- The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the preceding items.
- Executive Session: The Milwaukie City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions

are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

- For assistance/service per the Americans with Disabilities Act (ADA) please dial TDD 786-7555.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.



TO: Mayor and City Council

FROM: Mike Swanson, City Manager

DATE: September 8, 2003

RE: New Fine Structure for Violations of State Traffic Code

Action Requested

Council direction on whether to adopt the higher fines for violation of the State Traffic Code recently enacted by the Legislature and signed into law by the Governor for violations of the City's Traffic Code.

Background

On May 20, 2003 Council adopted Ordinance No. 1922. It amended the Municipal Code by adding Section 1.12.020 adopting the State Traffic Code (Oregon Revised Statutes, 2001 Edition, Chapters 153 and 801 through 826) and weight restrictions (Oregon Administrative Rule 740-100-0010) as violations of the Milwaukie Municipal Code.

In addition, adoption of each of the above included adoption of the accompanying fine structure. However, the ordinance established a minimum City fine by requiring that any City fine "must be at least fifty (50) percent of the maximum penalty or fine, exclusive of all costs and assessments."

The 2003 Legislature passed HB 2759, which increased filing fees and amounts paid for other services provided by courts as well as the amounts paid for violations of the law, including the State Traffic Code. The Governor signed HB 2759 on August 29, 2003; it became effective on September 1, 2003.

Enactment of the new fine State fine structure does not automatically incorporate that new fine structure into the Milwaukie Municipal Code. That requires Council adoption of an ordinance adopting the new fine schedule.¹

The following table describes the existing maximum fine and minimum fine to be assessed pursuant to the Municipal Code, the new maximum fine under HB 2759 and the minimum fine that would be assessed, and a few representative traffic violations within each of the classes:

COLUMN A VIOLATION CLASS	COLUMN B MUNICIPAL CODE MAXIMUM FINE/ MINIMUM FINE	COLUMN C HB2759 MAXIMUM FINE/ MINIMUM FINE	COLUMN D REPRESENTATIVE VIOLATIONS
CLASS A	\$600/\$300	\$720/\$360	Speeding over 30 mph excess; driving while suspended or revoked (except felony); careless driving (contributing to an accident)
CLASS B	\$300/\$150	\$360/\$180	Speeding 21 mph to 30 mph excess; failure to stop at a stop sign; unlawful u-turn (contributing to an accident); careless driving (not contributing to an accident)
CLASS C	\$150/\$75	\$180/\$90	Speeding 11 mph to 20 mph excess; unlawful u-turn (not contributing to an accident)
CLASS D	\$75/\$37.50	\$90/\$45	Speeding 1 mph to 10 mph excess; failure to use a seat belt

Therefore, the question is whether to adopt the new fine schedule for inclusion in the Municipal Code. There is no requirement that the City do so, and the effect of choosing this course is to retain the current fee structure represented in column B in the above Table.²

¹ There are two ways in which the new State fee structure might, in effect be implemented. First, officers can choose to cite a violator under either the State Traffic Code or the City Municipal Code. If he/she chooses the former, the City's minimum fine requirement does not apply. Second, the Municipal Judge could choose to impose a fine that would be no less than fifty percent of the new maximums. However, this would be solely at the discretion of the Court.

² As soon as all changes made by the Legislature are ready for inclusion in a newly revised edition of the ORS, we will present a more comprehensive amendment of the original ordinance for adoption as the 2003 Edition. This was always the plan in order to maintain conformance with the State Traffic Code. This simply makes it easier for those administering both the State and City Codes to work with them. This comprehensive amendment will include the changes to the fines outlined above, and the best guess is that it will occur some time in 2004.

Recommendation

I am recommending that Council immediately adopt the changes to the fine schedule made by HB2759. In adopting the new Municipal Code Section 1.12.020 we cited the need to impose real penalties to deter violations of the traffic laws. The staff memo recommending the new section states:

“ . . . enforcement is effective as a deterrent only if it can be backed up by real consequences. Penalties that do not have a significant impact do not change behavior. Thus, we see many states doubling the fines in school and road worker zones. The policy underlying both recognizes that there are vulnerable parties present who may well be harmed by traffic violators. If you impose real financial pain through fines, the deterrent effect may prevent loss of life or serious injury.”

The Council stated that it “recogniz[ed] the interest of the City in ensuring both the safety of its citizens and the driving public.” In addition, it recognized the fact that “major regional and State traffic routes flow through the City, and those routes generate traffic through City neighborhoods.” Increasing the penalties for traffic violations at a time when the State sees fit to do so also serves the interest first set forth when the ordinance was originally adopted.

If Council wishes to do so, we will have an appropriate ordinance prepared for the October 7, 2003 Council meeting.

Fiscal Impact

The ordinance would have an emergency clause providing for its immediate implementation. Thus, it would be in effect for approximately ten months during the current fiscal year. It is not clear how much revenue the additional fine structure would generate. In any event, the policy underlying implementation of this recommendation is one of deterrence.

DRAFT

MAYOR/COUNCIL COMMUNICATION AGREEMENTS

It is a basic value of the City of Milwaukie that we conduct business so as to ensure public access to information that is clear, concise, and understandable. These agreements are intended to ensure that our conduct gives real meaning to that value.

The agreements that follow have one common thread—mutual respect. Thus, in the likely event that the list does not answer a question, reference to that common thread will help to fashion an appropriate response.

1. In all Council events, work sessions, and meetings:
 - I demonstrate respect for all who are involved;
 - I respect all thoughts and ideas that;
 - I clarify facts and opinions to ensure understanding;
 - I do not personalize my comments;
 - I clearly state my opinion as being mine;
 - I look for ways to praise efforts and accomplishments; and
 - I stay focused and participate.
2. In working with the Mayor and Councilors:
 - I provide them with reasonable notice of matters I am introducing at meetings;
 - I always represent the City position before other bodies unless none has been adopted, in which case I inform the Mayor and Council in a timely manner of action I took;
 - I work toward consensus, and I accept and respect the group decision;
 - I first address a concern about a violation of these agreements or any other concern in a direct, appropriate, private, and timely manner.
3. In furtherance of our effort to seek broad based community support and information, I engage the community in a shared dialogue.
4. In my work with staff:
 - I communicate with staff to gather information; and
 - I exchange ideas with staff and give direction through the City Manager with the concurrence of the Mayor and Council.

2003 Milwaukie City Council Retreat Facilitator's Draft Notes

Our council members share the same goal: Improve our City. We value our citizens, employees, neighborhood system, business community, environmental assets, and each other. The diversity of our backgrounds gives us the perspectives necessary to serve the City we love. We have individual and collective energy and passion. We are caring individuals who take our work seriously. We are involved in the community and understand the need for fiscal responsibility. We have the willingness to learn and grow as a team.

Our work will be enhanced when we:

- Involve all members in an open and honest exploration of the issues
- Allow each other to speak freely -- disagreeing without being disagreeable
- Listen with both ears and assume positive intent
- Communicate directly, fairly and supportively without personal attack
- Give a heads-up to each other by phone, or face-to-face if there is problem
- Make decisions on the merits with a focus on the whole, not on personalities or politics
- Start anew, taking the time to know each other, and bond as a team
- Go to community meetings/events - individually and as a group
- Actively participate with and in the community, perhaps developing a marquee project to bring the City further together
- Have sufficient time to discuss issues at a Work Session - reserving time for public comment the next day
- Create a mutually agreeable Council "vision"